IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 19196 of 1996

Between:

B. Tarakeswari, D/o. B. Venkatesulu Naidu,

Hindu, R/o. 28-861 Kannaiah Naidu Colony,
Chittoor, Chittoor Dist.

..... PETITIONER

AND

The Director,

Sri Venkateswara Institute of Medical Sciences,

Tirupathi,

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ, order, or direction more particularly one in the nature of writ of mandamus by declaring and quashing the removal order passed vide proceedings Roc NO; C1/20/SVIMS/94 dt. 10-7-96, of the Respondent as illegal, arbitrary and violative of Art. 14,16 and 311 of the constitution of India and consequently direct the Respondent to re-instate the Petitioner with full back wages and all consequential benefits forth with.

Counsel for the Petitioner: MR.J.M.NAIDU

Counsel for the Respondent: MS.P.SARADA

The Court made the following:

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ORAL ORDER:

By the proceedings dated 10-7-1996 of the respondent, the petitioner, a temporary staff nurse in Sri Venkateshwara Institute of Medical Sciences, Tirupathi, was removed from service.

The respondent by proceedings dated 10-1-1996, placed the petitioner under suspension pending enquiry on an allegation that the petitioner had given an undiluted Potassium Chloride intravenous injection to a cardiac patient admitted in the I.C.C.U. on 5-5-1994, contrary to the written instructions that the patient should be administered Potassium Chloride syrup by oral administration. As a consequence of the erroneous administration of intravenous injection the patient went into crisis and was saved with considerable difficulty and great expense.

An enquiry officer was appointed, who issued a Memorandum of Charge dated 20-1-1996, listing out a charge of careless, negligent and irresponsible behaviour in

discharge of her duties as staff nurse and administering an intravenous injection contrary to and in disobedience of the recorded instructions in the doctor's order sheet.

The petitioner submitted her explanation to the charge memo on 12-2-1996 and 23-3-1996. The petitioner's request for legal assistance or defense assistance was negatived. The petitioner attended the enquiry and the Enquiry Officer submitted his report dated 22-6-1996 to the disciplinary authority. The disciplinary authority by a communication dated 24-6-1996 issued a second show cause notice to the petitioner communicating a provisional conclusion as to the guilt of the petitioner and also enclosed therewith a report of the Enquiry Officer dated 22-6-1996 and sought the explanation of the petitioner. The petitioner submitted her explanation dated 4-7-1996 to the second show cause notice.

On consideration of all the material on record including the evidence adduced during the enquiry and the enquiry report and after considering the explanation submitted by the petitioner in sufficient detail, the disciplinary authority by the impugned proceedings dated 10-7-1996, confirmed the conclusions of the Enquiry Officer as to the petitioner's guilt in respect of the charge alleged against her.

The conclusions are based on the documentary evidence of the doctor's record sheet, whereat, it is clearly and unambiguously recorded that the patient had to be administered "**Syp. Potklor 15 ml. Stat**". It is not in dispute that this directive in the doctors order sheet indicates that Potklor syrup of 15ml volume was to be administered immediately and orally. It is not also disputed that the order means only that administration should be oral and not intravenous. It is not also disputed that the petitioner administered on 5-5-1994 an intravenous injection of Potassium Chloride undiluted.

Dr. Raja Shekar, another witness at the enquiry, who the petitioner claimed, had orally instructed her to administer the intravenous injection, contrary to the recorded directive in the doctor's duty chart, stated that he has given no such oral instructions. Another duty officer sister Lincy Titus, the head nurse, also deposed that Dr. Raja Shekar during the rounds asked them to give syrup and not injection. On the basis of the oral and documentary evidence on record, the Enquiry Officer rationally came to the conclusion that the charged officer-the petitioner had conducted herself with gross negligence and wanton disregard of the commitment and the care warranted

of a nurse in a premier hospital. As a result of this gross negligence, the patient undergoing treatment in the Intensive Cardiac Care Unit was put into a state of jeopardy of life and could be saved only after considerable effort.

The departmental enquiry suffers from no procedural error of any magnitude warranting invalidation. The conclusions of the Enquiry Officer as confirmed by the disciplinary authority, are conclusions based on a rational appreciation of the oral and documentary evidence on record and do not suffer from any perversity in the appreciation of the evidence or any error in the application of the fundamental principles of administration law applicable to departmental enquiries. The impugned order does not also suffer any infirmity on account of the punishment being disproportionate to the gravity of the charge alleged. The impugned order is thus seen to be impeccable warranting no interference.

The writ petition is misconceived and is accordingly dismissed. No costs.

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3-08-2004

es/pvsn

ASSISTANT REGISTER

// TRUE COPY //

SECTION OFFICER

To.

1. The Director, Sri Venkateswara Institute of Medical Sciences, Tirupathi.

2. 2 CD copies.